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Robert E. Cooper, Jr.**

**Department of Commerce and Insurance
Commissioner Leslie Shechter Newman**

NEWS RELEASE

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FOR IMMEDIATE RELEASE

Feb. 14, 2008

#08-08

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**TENNESSEE, 28 OTHER ATTORNEYS GENERAL SETTLE CONSUMER
PROTECTION CLAIMS AGAINST CAREMARK**

Caremark agrees to limits on drug switching program; \$38.5 Million to States

Attorney General Bob Cooper announced today that he and Attorneys General from 28 other states entered into a settlement of consumer protection claims against Caremark Rx, L.L.C., one of the nation's largest pharmacy benefits management (PBM) companies. PBMs enter into contracts with employers and government health plans to process prescription drug claims for drugs provided to patients enrolled in the health plan; negotiate with drug companies to obtain volume discounts; negotiate discounts with participating retail pharmacies to provide dispensing services at a discount; and dispense drugs to patients through PBM-owned mail order pharmacies.

Attorney General Cooper filed suit on behalf of the Division of Consumer Affairs against Caremark Rx, L.L.C. and two of its subsidiaries: Caremark, L.L.C. and CaremarkPCS, L.L.C. (formerly AdvancePCS). The complaint alleges that Caremark engaged in deceptive business practices by encouraging doctors to switch patients to different brand name prescription drugs, representing that the patients and/or health plans would save money. Doctors were not adequately informed of the effect this switch would have on costs to patients and health plans. Moreover, Caremark did not inform their client plans that rebates accrued from the drug switching process would be retained by Caremark and not passed directly to the client plan. The complaint further alleges that Caremark restocked and re-shipped previously dispensed drugs that had been returned to Caremark's mail

order pharmacies.

As part of the settlement, Caremark is required to significantly alter its business practices. In addition, Caremark will pay \$38.5 million to the States and up to \$2.5 million in reimbursement to patients who incurred expenses related to certain switches between cholesterol-controlling drugs. As part of the settlement, CoverRx, a subsidiary of the CoverTennessee program, will receive \$647,775 to expand CoverRx to provide subsidized coverage for anti-smoking medications and other needed prescription drugs. Tennessee will also receive \$300,000 which includes recovery of litigation costs, a payment to the state's general fund, and to the Division of Consumer Affairs.

“Consumers have a right to truthful information about the drugs they are prescribed,” Attorney General Cooper said, “and doctors have the right to know who is actually benefitting whenever a drug switch is recommended so they may do what is best for their patients.”

“We believe consumers will benefit from all the changes outlined in the settlement,” added Mary Clement, Director of the Division of Consumer Affairs.

The settlement generally prohibits Caremark from soliciting drug switches when:

- *The net drug cost of the proposed drug is more expensive than the originally prescribed drug;
- *The cost to the patient will be greater than the cost of the originally prescribed drug;
- *The originally prescribed drug has a generic equivalent and the proposed drug does not;
- *The originally prescribed drug's patent is expected to expire within six months; or
- *The patient was switched from a similar drug within the last two years.

Among other requirements in the agreement, Caremark must:

- *Inform patients and prescribers what effect a drug switch will have on a patient's co-payment;
- *Inform prescribers of Caremark's financial incentives for certain drug switches;
- *Inform prescribers of material differences in side effects or efficiency between prescribed drugs and proposed drugs;
- *Reimburse patients for out-of-pocket expenses for drug switch-related healthcare costs and notify patients and prescribers that such reimbursement is available;
- *Obtain express, verifiable authorization from the prescriber for all drug switches;
- *Inform patients that they may decline a drug switch and the conditions for receiving the originally prescribed drug;
- *Monitor the effects of drug switches on the health of patients;
- *Adopt a certain code of ethics and professional standards;
- *Refrain from making any claims of savings for a drug switch to patients or prescribers unless Caremark can substantiate the claim;
- *Refrain from restocking and re-shipping returned drugs unless permitted by applicable law; and
- *Inform prescribers that visits by Caremark's clinical consultants and promotional materials sent to prescribers are funded by pharmaceutical manufacturers, if that is the case.